

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

ALBERT C. BLACK III, as TRUSTEE OF
PM SETTLEMENT TRUST and
SUBSTITUTE PLAINTIFF ON BEHALF
OF PENNY HAAB MOORE, CHRISTA
PETRUSA, JOSEPH PETRUSA, THE
KAREN THOMAS FAMILY TRUST,
ALBEAZUL, LLC, JEFF WENDEL,
JAMES DUDOVICK, ADRIANA VAN
HEMERT, RICARDO YANEZ, THE
ESTATE OF MALCOM R. DILLON,
JOSE GUERRO, SHARON MILLER,
TERRY SCHACKOW, DEBRA SUE
TAYLOR, JOHN RENTERIA, DMAR
FINANCIAL CORP., JONATHON M.
HICKS, NANCY SMITHERMAN,
ANDREA LEDBETTER and TED
WILSON and others similarly situation,
and as Wind-Up Agent of PetroRock
Mineral Holdings, LLC,

Plaintiff,

v.

STEFAN T. TOTH, 2X5 ENTERPRISES
LIMITED PARTNERSHIP, THE 2X5,
HOMEBOUND RESOURCES, LLC,
RESOLUTE CAPITAL PARTNERS LTD,
LLC; RESOLUTE CAPITAL ADVISORS,
LLC; RESOLUTE CAPITAL
MANAGEMENT SERVICES, LLC;
THOMAS J. POWELL, POWELL I.P,
LLC; MOUNTAIN HIGH CAPITAL,
LLC; MOUNTAIN HIGH CAPITAL;
MANAGEMENT LLC; STRATEGIC
ENERGY ASSETS, LLC; TENACITY
HOLDING COMPANY LLC; TIBURON

COURT FILE NO. _____

**NOTICE OF REMOVAL OF
DEFENDANTS RESOLUTE
CAPITAL PARTNERS LTD.,
RESOLUTE CAPITAL MANAGERS,
LLC AND RESOLUTE
MANAGEMENT SERVICES, LLC**

HOLDINGS; RESOLUTE CAPITAL MANAGERS, LLC; RCP-LTD., LLC; RCMG, LLC; RESOLUTE ENERGY CAPITAL, LLC; FOX-IP, LLC; LOVE 2 LIVE, LLC; LOVE 2 LIVE HOLDINGS, INC.; STEFAN TOTH FAMILY TRUST; CONSTANTINE CAPITAL, LLC; HOMEBOUND FINANCIAL GROUP, LP; TED ETHEREDGE; JACQUELINE KUIPER; CANDACE POWELL; LEONARD TOTH; HOMEBOUND ENERGY, LLC; HOMEBOUND, LLC; PETROROCK PRODUCTION HOLDINGS, LLC; TOTH INVESTMENTS, LLC; FELFRAN INVESTMENTS, LLC; FRTR REALTY COMPANY, LLC; HOMEBOUND CONSTRUCTION SERVICES, LLC; PETROROCK PIPELINE & SWD, LLC; TPS ENERGY, LLC; TPS ENERGY 2, LLC; TPS REALTY, LLC; MINERVA MIDSTREAM, LLC; MINERVA MIDSTREAM MANAGEMENT, LLC; CRUDE ANC, LLC; FLINT ROCK MARKETING, LLC; N MASTER HOLDINGS, LLC; RIVERFRONT MINERALS, LLC; ELM CAPITAL, LLC; JLTH AT NORTH GP, LLC; EDERVILLE PARK TOWNHOMES, LLC; and MCKENNY 90 TOWNHOMES, LLC

Defendants.

Defendants Resolute Capital Partners Ltd., LLC, Resolute Capital Managers, LLC, and Resolute Management Services, LLC, by and through their undersigned counsel, as

**NOTICE OF REMOVAL OF DEFENDANTS
RESOLUTE CAPITAL PARTNERS LTD. LLC,
RESOLUTE CAPITAL MANAGERS, LLC AND
RESOLUTE MANAGEMENT SERVICES, LLC**

and for their Notice of Removal pursuant to 28 U.S.C. §§1441(a), 1446, and 1453(b) and the Class Action Fairness Act, 28 U.S.C. § 1332(d), and in support thereof, state as follows:

1. Resolute Capital Partners Ltd., LLC (“RCP”) is a Nevada limited liability company. Resolute Capital Managers, LLC (“RCM”) is a Nevada limited liability company. Resolute Management Services, LLC (“RMS”) is a Delaware limited liability company.

2. This Notice of Removal concerns a lawsuit (the “Action”) pending in the District Court for Dallas County, Texas. The Action, which arose out of a wind-up proceeding involving a Texas company called PetroRock Mineral Holdings, LLC, has a complex procedural history.

3. The Action was commenced on or about May 3, 2022, with the filing of a Petition seeking the appointment of an agent to wind up the affairs of PetroRock. (Ex. A.) This Petition alleged a securities fraud in excess of \$200 million. (*Id.*, par. 14.)

4. The Action was initially captioned *PetroRock Mineral Holdings, LLC v. Minerva Resources LLC, Mercury Operating, LLC, Stefan T. Toth, 2x5 Enterprises Ltd. Partnership, The 2x5, LLC, and Cronus Mineral Holdings, LLC*, Cause No. DC-22-04656. (*Id.*)

5. RCP, RCM, and RMS were not named as defendants in this Petition.

6. On or about May 25, 2022, a Petition in Intervention was filed in the Action on behalf of certain persons who sought relief based upon their status as “Secured Investors” in PetroRock. (Ex. B.) These Secured Investors included persons from Florida, Ohio, Wisconsin, California, Illinois, Indiana, and other states. (*Id.*, pars. 8-24.)

7. RCM and RMS were not identified or named as parties in this Petition in Intervention. RCP was identified in this Petition in Intervention, but it was not named as a party defendant. The May 22, 2022 Petition was not served upon RCP.

8. Subsequent Petitions and Amended Petitions were filed in the Action by other groups of PetroRock investors from other states, including a July 28, 2022 amended petition that asserted class action claims against PetroRock. (*See* Ex. C (April 21, 2023 Order), p. 2.)

9. RCP was named as a party defendant in the caption of some of these Petitions. However, none of these Petitions was served on RCP; likewise, none of them was served on either RCM or RMS.

10. On or about June 27, 2022, the Court in the Action entered an Order appointing Albert C. (Tre) Black III as the Wind-Up Agent over PetroRock. (Ex. D.)

11. A partial settlement of many of the investors’ claims was reached in September 2022. This settlement resolved (or at least purported to resolve) the investors’ claims against PetroRock. This settlement also envisioned the creation of a Trust (later

denominated the “PM Settlement Trust”) to pursue claims on behalf of the investors against entities and persons allegedly liable for PetroRock’s insolvency. (*See* Ex. C, p. 2.)

12. On November 15, 2022, the Court entered an Amended Order Preliminarily Certifying Class for Settlement Purposes. (*See* Ex. C, p. 2; *see also* Ex. G, (Consolidated Amended Petition), ¶ 3.)

13. On April 21, 2023, the Court entered a final Amended Order Certifying Class and Final Approval of Settlement dated (“Class Approval Order”). (Ex. C.) Among other things, the Class Approval Order certified a Settlement Class, as follows:

all investors of PetroRock Mineral Holdings, LLC, their successors and assigns, who purchased Securities from one or more of the Funds and suffered a Net Cash Loss.

(Ex. C, p. 7.) This Order states that the class consists of more than 1,000 people.

(*Id.*, p.3.)

14. Based on the best information currently available to RCP, RCM, and RMS, less than fifteen percent of the members of the class are residents of Texas.

15. Also in the Class Approval Order, the Court confirmed that the members of the class assigned their claims to a liquidating trust, the PM Settlement Trust. (Ex. C, p. 5.)

16. The Class Approval Order appointed Wind-Up Agent Black as Trustee of the PM Settlement Trust. Based on this Order, Black asserts that he has standing and authority to pursue claims on behalf of the class, and (as noted below) on September 22, 2023, Black filed a Consolidated Amended Petition asserting those claims. (Ex. G, ¶ 5.)

17. On or about September 14, 2023 (before the filing of the Consolidated Amended Petition), Stefan Toth and an entity known as Homebound Resources, LLC (both of which were original defendants in the Action) filed a joint Answer in the Action. (Ex. E.)

18. On or about September 15, 2023, Defendants Toth and Homebound filed their Crossclaim against parties including RCP, RCM, and RMS. (Ex. F.) This Crossclaim was served upon RCP, RCM, and RMS on or about October 9 and 11, 2023. Counsel for Defendants Toth and Homebound have agreed to an extension of time to Answer the Crossclaim until December 15, 2023.

19. On or about September 22, 2023, Black (in his capacities as the Trustee of the PM Settlement Trust and as the Wind-Up Agent) filed a Consolidated Amended Petition (“CAP”). (Ex. G.)

20. In the CAP, Black asserts securities-fraud claims against RCP, RCM, and RMS (and many other defendants) on behalf of the previously-certified class of investors. (See Ex. G, ¶¶ 2-5 (summarizing procedural history, including the April 21, 2023 Class Action Order and asserting that Black has the authority to sue on behalf of the certified class).)

21. On or about November 10, 2023, counsel for RCP, RCM, and RMS agreed to accept service of the CAP on RCP, RCM, and RMS. Accordingly, November 10, 2023

was the first day on which a pleading asserting class-action claims against these removing parties, RCP, RCM, and RMS, was served on these removing parties.

22. As set forth above, and pursuant to 28 U.S.C. § 1332(d), this matter involves a class of more than 100 persons, the amount in controversy exceeds \$5 million, at least one class member is from a state different than the removing parties, RCP, RCM, and RMS, and less than fifteen percent of the members of the class are residents of Texas.

WHEREFORE, Defendants Resolute Capital Partners Ltd., LLC, Resolute Capital Managers, LLC, and Resolute Management Services LLC respectfully request that this case proceed in this Court as an action properly removed to it.

Dated: December __, 2023.

Respectfully submitted,

By: /s/ Charles E. Jones

CHARLES E. JONES

charles.jones@lawmoss.com

MATTHEW R. BURTON

Pro Hac Vice Motion to be Filed

matthew.burton@lawmoss.com

MOSS & BARNETT, P.A.

150 South Fifth Street, Suite 1200

Minneapolis, MN 55402

(612) 877-5000

(612) 877-5999 (fax)

and

By: /s/ Matthew E. Last

DANIEL D. TOSTRUD

NOTICE OF REMOVAL OF DEFENDANTS
RESOLUTE CAPITAL PARTNERS LTD. LLC,
RESOLUTE CAPITAL MANAGERS, LLC AND
RESOLUTE MANAGEMENT SERVICES, LLC

State Bar No. 20146160
dtostrud@cobbmartinez.com

MATTHEW E. LAST
State Bar No. 24054910
mlast@cobbmartinez.com

COBB MARTINEZ WOODWARD PLLC
1700 Pacific Avenue, Suite 3100
Dallas, Texas 75201
(214) 220-5224
(214) 220-5299 (Fax)

**COUNSEL FOR DEFENDANTS
RESOLUTE CAPITAL PARTNERS LTD
AND RESOLUTE CAPITAL MANAGERS
LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served either by e-service, e-mail, facsimile or certified mail return receipt requested to all counsel of record on this 8th day of December, 2023.

/s/ Matthew E. Last

MATTHEW E. LAST

8822664v1

**NOTICE OF REMOVAL OF DEFENDANTS
RESOLUTE CAPITAL PARTNERS LTD. LLC,
RESOLUTE CAPITAL MANAGERS, LLC AND
RESOLUTE MANAGEMENT SERVICES, LLC**